

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Request to Update Default)	WC Docket No. 03-225
Compensation Rate for Dial-Around)	RM No. 10568
Calls from Payphones)	

**COMMENTS OF MCI
ON PETITION FOR RECONSIDERATION AND
REQUEST FOR CLARIFICATION REGARDING JURISDICTION OF
PAYPHONE COMPENSATION SURCHARGES**

MCI submits the following comments requesting the Commission clarify the jurisdiction of payphone compensation surcharges. A petition for reconsideration was filed by the International Prepaid Communications Association, Inc. (“IPCA”) on September 27, 2004. In that petition, IPCA urges the Commission to reconsider its decision to increase the default per call rate for dial-around calls to \$0.494 per call.¹ One justification IPCA offers for its request is the fact that several states cap surcharges that any carrier may recover in order to compensate payphone service

providers (“PSPs”) at \$.24,² thus providing one reason why any carrier, including prepaid card providers, will not be able to fully recover its costs now that the Commission has doubled payphone compensation rates.

MCI considers all payphone surcharges to be interstate charges, subject to review only by the Commission. This is so, because the FCC has exercised sole jurisdiction over all payphone rates (*“Further, Section 276(b)(1)(A) gives the Commission both the jurisdiction to ensure fair compensation for local coin calls and the mandate to establish a plan to compensate PSPs on a per-call basis”*).³ Therefore, if a carrier chooses to recover payments for completed dial-around calls by means of a surcharge (which is universally the case) this surcharge is also an interstate recovery charge. This is so even if the call on which the surcharge is placed happens to be an intrastate call.

The situation is analogous to the subscriber line charge (“SLC”). The SLC is an interstate surcharge placed by local exchange companies on their customers for the recovery of a portion of the costs of completing long distance calls on local networks. The surcharge is interstate, and is applied even if a customer does not

¹ *Request to Update Default Compensation Rate for Dial-Around Calls from Payphones*, Report And Order, FCC 04-182, WC Docket No. 03-225 (rel. Aug. 12, 2004) (“Order”).

² *Id.*, at 1.

³ Implementation of the Pay Telephone and Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, *Report and Order*, FCC 96-288, 11 FCC Rcd 20541 (rel. Sept. 20, 1996), &58

make any interstate calls. Similarly, payphone compensation is a payment to PSPs for the use of their payphone, whether or not the call itself is interstate or intrastate.

Just as states have no authority to regulate payphone rates, they do not have authority to regulate surcharges carriers place on calls to recover payments associated with payphone rates under the Commission's jurisdiction. MCI therefore requests the Commission clarify that surcharges designed to recover mandated interstate payments such as payphone compensation are also interstate surcharges, and states may not set rate caps on such surcharges.

Respectfully submitted,

/s/ Larry Fenster

Larry Fenster